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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,498	03/15/2004	Aviv Eyal	FRIS-0729	9358

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SAN JOSE, CA 95129

EXAMINER
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PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
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2164

MAIL DATE	DELIVERY MODE
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02/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/800,498

Applicant(s)

EYAL ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. Application No. 10/800498 filed on 3/15/2004 has been examined. In this Office Action, claims 1-22 are pending.

### ***Priority***

2. Applicant is claiming the benefit of priority under 35 U.S.C. 119(e) since a U.S. parent Patent Application No. 09/563173 is filed on 5/2/2000 and which in turn claimed a Provisional Application No. 06/177786 filed on 1/24/2000. So, the examiner honors the priority as per statutory law.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

4. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

5. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-11 of US Patent 6,721,741 (Eval et al.). Although the conflicting claims are not identical, they are not patentably distinct from each other because it is well settled that omission of elements and their functioning is obvious expedient if the remaining elements perform the same function as before. See *In re Karlson* 136 USPQ 184 (CCPA 1963).

7. The following table shows the claims in the application 10/800498 that are rejected by the corresponding claims in the US Patent.

<b><i>Claims Comparison Table</i></b>	
10/800498	US Patent 6,721,741
1, 12	1
2, 13	2
3, 14	3
4, 15	4
5, 16	5
6, 17	6
7, 18	7
8, 19	8
9, 20	9
10, 21	10
11, 22	11

This is a judicially obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hoffert et al. (U.S. Patent 5,983,176).

10. As independent claims 1, 12, Hoffert teaches as, a method to locate media resources on a network (col. 2, lines 51-53), the method comprising:

Hoffert teaches the claimed, making a verification determination, at one or more moments, for each link in a plurality of links in order to identify a set of two or more verified links, wherein making the verification determination includes using each link in the plurality of links to determine an indication of whether a corresponding media resource for that link is available at a particular moment (at Fig. 1, col. 3, line 65 to col.4, line 3);

Hoffert teaches the claimed, from the plurality of links, making available for playback on a network enabled device the set of verified links (Fig. 1, col. 3, line 65 to col.4, line 3);

Hoffert teaches the claimed, responsive to a search request from at least one of one or more components that are configured to use links to initiate continuous and automatic playback of media resources identified by those links (Fig. 1, col. 3, line 65 to col.4, line 3), wherein the one or more components include a media player residing on the network enabled device, performing the steps of: identifying, from the set of verified links, at least a first link and a second link corresponding to a criteria of the search request (col.22, line 66 to col. 23, line 2), wherein the first link can be used to access a first media resource on the network, and the second link can be used to access a second media resource on the network (Fig. 1, col.3, lines 7-8); and

Hoffert teaches the claimed, cooperating with at least one of the one or more components in order to communicate the first link and the second link to the media player, so that at least one of the one or more components can subsequently initiate playback of the first media resource using the media player, and in response to termination of playback of the first media resource, automatically initiate playback of the second media resource using the media player; wherein performing the step of making the verification determination increases a likelihood that the first media resource and the second media resource are each available when playback of the first media resource and playback of the second media resource are each initiated by the one or more components, so that playback of the second media resource is more likely to be successful when initiated automatically and continuously after playback of the first media resource as a result of the second link being from the set of verified links, when

compared to another link that is not in the set of verified links (col. 23, lines 47-67; Appendix A, col. 3, lines 55-60 and Fig. 3A, col. 13, lines 20-24).

11. As per dependent claims 2, 13, Hoffert teaches the claimed, further comprising the step of storing the plurality of links in one or more memory devices on the network (Fig. 1, col. 3, lines 5-6).

12. As per dependent claims 3, 14, Hoffert teaches the claimed, further comprising: identifying one or more classes of information about at least some of the plurality of links, and storing the at least some of the plurality of links in association with the one or more classes of information (Fig. 1, col.3, lines 7-8).

13. As per dependent claims 4, 15, Hoffert teaches the claimed, further comprising the step of making the one or more classes of information available to the network enabled device (Fig. 1, col. 3, lines 8-9).

14. As per dependent claims 5, 16, Hoffert teaches the claimed, further comprising the step of identifying the plurality of links using a crawler module, the crawler module identifying at least some of the plurality of links from a web site (Fig. 1, col. 3, lines 17-19).

15. As per dependent claims 6, 17, Hoffert teaches the claimed, wherein corresponding media resources in the set of verified links include media resources having one of an audio data type, a video data type, or a combination of audio and video types (Fig. 2B, col. 3, lines 48-54).

16. As per dependent claims 7, 18, Hoffert teaches the claimed, wherein the step of making a verification determination includes attempting to open the corresponding media resource of each link in the plurality of links using a media playback component (Fig. 3A, col. 13, lines 5-32)

17. As per dependent claims 8, 19, Hoffert teaches the claimed, further comprising the step of identifying the plurality of links by programmatically controlling a media playback component through an application programmable interface of the media playback component to access media resources that are identified by at least some of the plurality of links( Appendix A, col. 4, lines 2-3).

9. As per dependent claims 9, 20, Hoffert teaches the claimed, wherein programmatically controlling a media playback component through an application programmable interface includes configuring the media playback component to not display a user interface (col. 22, line 66 to col. 23, line 2).



10. As per dependent claims 10, 21, Hoffert teaches the claimed, wherein programmatically controlling a media playback component through an application programmable interface includes configuring the media playback component to reduce functionality in at least one of displaying, playing audio and processing portions of an accessed media resource (Fig. 4E, col. 21, lines 1-10).

11. As per dependent claims 11, 22, Hoffert teaches the claimed, wherein making a verification determination includes making the verification determination for each of the plurality of links to determine which of the links in the plurality of links are selectable to open the corresponding media resource of a specified data type (Fig. 1, col. 3, lines 7-9 and at col. 23, lines 47-67).

### ***Conclusion***

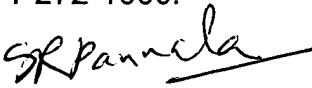
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Sathyanarayan Pannala  
Primary Examiner

srp  
January 30, 2008